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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/017,680 | 10/22/2001 | Mark H. Lucovsky | 3070 | 9548 |

7590 01/27/2005
 Law Offices of Albert S. Michalik, PLLC
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EXAMINER

NGUYEN, MAIKHANH

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2176

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/017,680

Applicant(s)

LUCOVSKY ET AL.

Examiner

Maikhanh Nguyen

Art Unit

2176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5/27/04 & 9/20/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communications: Response to Restriction Requirement filed 12/02/2004 to the original application filed 10/22/2004; IDS filed 05/27/2004 and 09/20/2004.
2. Claims 1-20 are elected for examination. Claims 1 and 19 are independent claims.

Priority

3. Examiner acknowledges the claims for domestic priority under 35 U.S. C. 119 (e) to provisional application 60/275,809, which was filed 03/14/2001.

Specification

4. The abstract of the disclosure is objected to because it exceeds the limit of 150 words. Correction is required. See MPEP § 608.01(b).
5. Claims 4-18 are objected to because of the following informalities:
 - a. “the services schema” (claims 4-18) should read “the service schema”.
 - b. “a first services” (claim 4) should read “a first service”.Appropriate correction is required.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. CIT. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Uogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 C.F.R. ' 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. ' 1.78(d).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of copending application No. 10/187057, and claims 1-27 of copending application No. 10/208,975. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the instant application, claim 1 of co-pending application

10/187057, and claim 1 of co-pending application 10/208,975 are all claiming: providing a schema, the schema having service-related fields arranged into a content document with defined structures for the fields; receiving a data access request, the request including associated identity information; and in response to the data access request, manipulating at least one set of data in a logical document that includes data therein according to the associated identity information, each set of data in the logical document structured to correspond to a field in the content document. The main difference between the instant application, copending application No. 10/187057, and copending application No. 10/208,975 is the instant application claims a **service schema**, copending application No. 10/187057 claims a **categories schema**, and copending application No. 10/208,975 claims a **device schema**.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or " (Emphasis added.)

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by **Saulpaugh et al.** (U.S. 6,789,126 – filed 10/2000).

As to independent claim 19:

Saulpaugh teaches in a computer network, a method comprising,

- (i) receiving a data access request (*e.g., the client receives results from the service; col.32, lines 35-67 & col.33, lines 15-67*), the request including associated identity information (*e.g., a mechanism for clients to negotiate service access rights ...The result of the negotiation may an authorization such as an authentication credential the conveys to the client the right to use the requested subset of the service's capabilities; col.32, lines 40-67*);
- (ii) accessing a data store to obtain data (*e.g., clients and services may find each other and broker content using a transient storage space; col.16, lines 19-25*) based on the associated identity information; constructing a document including at least part of the data, the document arranged according to a defined schema (*e.g., Services may place a content or service advertisement in a space. The advertisement may describe the content type or the capabilities of the service. Clients may subsequently browse spaces looking for advertisements that match a desired set of capabilities. When a client finds a matching advertisement, a communication channel may be established which may enable bi-directional message passing to the service backing the advertisement; col.16, lines 25-33*);
and

- (iii) returning the document in response to the request (*e.g., Results ... from service operations may be returned directly to the client in a response message; col.16, lines 19-41 & XML document is required to be returned in the response message; col.33, lines 56-67*).

As to dependent claim 20:

Saulpaugh teaches the schema includes at least one defined field for extending the schema (*e.g., extended schema; col.39, lines 32-57*).

As to independent claim 1:

Saulpaugh teaches in a computer network (*Fig.2*), a method comprising,

- (i) providing a service schema (*e.g., the service's XML schema; col.15, lines 19-2 & col.29, lines 4-25*), the service schema having service-related fields arranged into a content document with defined structures for the fields (*e.g., XML document which has fields are defined with tags and therefore has a defined structure; col.26, lines 45-52 & col.35, lines 34-41*);
- (ii) receiving a data access request directed to service information (*e.g., the client receives results from the service; col.32, lines 35-67 & col.33, lines 1-8*), the request including associated identity information (*e.g., a mechanism for clients to negotiate service access rights ...The result of the negotiation may an authorization such as an authentication credential the conveys to the client the right to use the requested subset of the service's capabilities; col.32, lines 40-67*);
and

(iii) in response to the data access request (*col.32, lines 25-67 & col.33, lines 15-67*), manipulating (*e.g., a client can manipulate the XML representation of an object; col.11, lines 45-57 & col.13, lines 21-46*) at least one set of data in a logical service document (*e.g., a XML schema at the service message gate within a device, which provides services to the clients; col.7, lines 24-67*) that includes data therein according to the associated identity information (*e.g., the client is only able to request a service that is permitted and the clients identity is verified by the authentication service; col.18, lines 29-56*), each set of data in the logical service document structured to correspond to a field in the content document (*col.33, lines 15-45*).

As to dependent claim 2:

Saulpaugh teaches manipulating (*col.11, lines 45-57 & col.13, lines 20-45*) at least one set of data comprises reading data (*col.11, lines 45-57 & col.13, lines 20-45*) from at least one field in the logical service document (*col.7, lines 24-67*).

As to dependent claim 3:

Saulpaugh teaches manipulating (*col.11, lines 45-57 & col.13, lines 20-45*) at least one set of data comprises writing data (*col.11, lines 45-57 & col.13, lines 20-45*) to at least one field in the logical service document (*col.7, lines 24-67*).

As to dependent claim 4:

Saulpaugh teaches the service schema corresponds to a first services to allow an application to find a second service (*e.g., clients and services may find each ... using a transient storage space; col.16, lines 19-25*).

As to dependent claim 5:

Saulpaugh teaches the service schema corresponds to an application settings service (*items 300-310; Fig.2*).

As to dependent claim 6:

Saulpaugh teaches the service schema corresponds to a calendar service (*col.16, lines 3-18*).

As to dependent claim 7:

Saulpaugh teaches the service schema corresponds to a categories service (*e.g., a mechanism to send and receive XML messages between clients and services ... XML messages may be 'typed'; col.17, lines 57-59*).

As to dependent claim 8:

Saulpaugh teaches the service schema corresponds to a contacts service (*e.g., XML messaging mechanism; col.34, lines 34-42*).

As to dependent claim 9:

Saulpaugh teaches the service schema corresponds to a devices service (*e.g., Device/Service; Fig.6*).

As to dependent claim 10:

Saulpaugh teaches the service schema corresponds to a documents service (*e.g., XML schema advertised for the service; col.17, lines 27-45*).

As to dependent claim 11:

Saulpaugh teaches the service schema corresponds to a favorites service (*e.g., The distributed computing environment may provide a mechanism for matching a component*

...a client 'which may be a service' may desired a service that meets a set of interface requirements; col.34, lines 9-13).

As to dependent claim 12:

Saulpaugh teaches the service schema corresponds to an inbox service (*e.g., clients may find the advertisement to access service using the XML messaging mechanism; col.34, lines 39-42).*

As to dependent claim 13:

Saulpaugh teaches the service schema corresponds to a lists service (*e.g., a service or content listed by the space; col.34, lines 48-60).*

As to dependent claim 14:

Saulpaugh teaches the service schema corresponds to a location service (*e.g., locating services; col.7, lines 11-20).*

As to dependent claim 15:

Saulpaugh teaches the service schema corresponds to an alerts service (*e.g., event notification messages; col.18, lines 51-56).*

As to dependent claim 16:

Saulpaugh teaches the service schema corresponds to a profile service (*see "Client Profile" in Fig.5).*

As to dependent claim 17:

Saulpaugh teaches the service schema corresponds to a presence service (*e.g., Many spaces may exist, each contain XML advertisements that describe services or content ...a*

space may be a repository of XML advertisements of services and/or XML data, which may be raw data or advertisements for data, such as results; col.34, lines 42-47).

As to dependent claim 18:

Saulpaugh teaches the service schema corresponds to a wallet service (*e.g., the user may insert the smart card into the client device to begin the session; col.75, lines 43-50*).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kraft et al. Pub. No: US 2002/0099593 Pub. Date: Jul. 25, 2002

Slaughter et al. U.S. Patent No.: 6,643,650 issued: Nov. 4, 2003

Saulpaugh et al. U.S. Patent No.: 6,792,466 issued: Sep. 14, 2004

Imamura et al., "Metadata representation in XML for Internet-based electronic XML application from business to government", IEEE, 07/2000, pages: 387-392.

Bergman, "XML technology enables redesigned deep space network operations", IEEE, 03/2000, pages: 493-502.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maikhanh Nguyen whose telephone number is (571) 272-4093. The examiner can normally be reached on Monday - Friday from 9:00am – 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H Feild can be reached on (571) 272-4090.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Maikhanh Nguyen
January 21, 2005


JOSEPH FEILD
SUPERVISORY PATENT EXAMINER